

**PLANNING AND ZONING BOARD
JUNE 11, 2008**

1. ROLL CALL

The meeting was called to order at 7:05 p.m. Board members present were Chair Scott McLaughlin, Vice-Chair John Stevens (arrived at 7:06 p.m.), Philip Busey, John Capozzoli and Mimi Turin. Also present were Attorney Thomas Moss, Planning and Zoning Manager David Quigley, Deputy Planning and Zoning Manager David Abramson, Planner Ingrid Allen, and Board Secretary Janet Gale recording the meeting.

2. APPROVAL OF MINUTES: May 14, 2008

Mr. Busey made a motion, seconded by Ms. Turin, to approve the minutes of May 14, 2008.

Chair McLaughlin noted that there had been no mention that Chair Bender had excused himself from that meeting and passed the gavel to Vice-Chair Stevens to continue. Ms. Gale indicated that she would correct the oversight.

Chair McLaughlin was not sure about the correct spelling of a word and asked that it be checked by Ms. Gale. Ms. Gale responded that she would make the correction if it had been misspelled.

Mr. Busey amended his motion to include the corrections, seconded by Ms. Turin. In a voice vote, all voted in favor. **(Motion carried 5-0)**

3. PLAT

3.1 P 11-1-07, 2401 University Commercial, 2401 University Drive (B-2) **(tabled from May 14, 2008)**

Chair McLaughlin advised that the petitioner had requested that items 3.1 and 4.2 be tabled to July 9, 2008.

Ms. Turin so moved, seconded by Vice-Chair Stevens. In a voice vote, all voted in favor. **(Motion carried 5-0)**

4. PUBLIC HEARING*Rezoning*

4.1 ZB 2-1-08, Voigt/Lantana Square Shopping Center Ltd., 5990 SW 82 Avenue (from B-1 to CF)

John Voigt, Pastor Maria Khaleel and Frank Costoya, representing the petitioner, were present. Mr. Voigt asked if item 4.5 could be taken together with item 4.1.

Chair McLaughlin asked for a motion to take items 4.1 and 4.5 together.

Vice-Chair Stevens so moved, seconded by Ms. Turin. In a voice vote, all voted in favor. **(Motion carried 5-0)**

Mr. Quigley summarized the planning reports. Chair McLaughlin asked if the site plan included in the backup was conceptual and Mr. Costoya confirmed that it was.

Mr. Busey asked if an estimate had been made on the "loss of tax value" caused by rezoning from B-1 to a Community Facility. Mr. Quigley responded that the entire parcel would be tax exempt, but no monetary estimate had been provided.

Mr. Busey was concerned about the tax loss and, therefore, asked about Criterion (j) of the Justification Letter in Exhibit 1. There was a sentence stating that "Federal legislation has recognized that religious institutions are to be given preferential consideration in zoning requests due to these difficulties and limitations." In the context of Criterion (j), Mr. Busey asked if the Town was under any restrictions in considering the tax consequences of rezoning to an exempt category. Mr. Moss responded that the Town was not under any restrictions other than to weigh this criterion with the others and to keep in mind that the Federal regulations must be adhered to.

PLANNING AND ZONING BOARD
JUNE 11, 2008

Mr. Busey was troubled by the phrase “preferential consideration” and asked Mr. Moss for the definition of “preferential” as applied in this case. Mr. Moss replied that it would have the common dictionary definition and if there were competing interests in this case, it would be given “preference” over other uses. Mr. Moss indicated that the Town was not required under Federal law to rezone this property to accommodate a church. Mr. Voigt offered his interpretation of Criterion (j) for further clarification and understanding. He calculated that based on the last tax bill, the loss of revenue to the Town would be approximately \$1,400.

Using an aerial and other graphics, Mr. Voigt provided a presentation and better explained the intent of the project and purpose for the requests. When he spoke of the public participation meetings, he and Mr. Costoya advised that the neighbors had no objections and preferred the church to a commercial plan. Pastor Khaleel spoke of the uses and services that would be offered at the facilities.

A lengthy discussion ensued regarding traffic patterns, the impact on local roads, and distance separations between free-standing religious institutions. At Mr. Busey’s request, Mr. Voigt pointed out the access and visibility constraints which discouraged commercial use of the site.

Chair McLaughlin asked if anyone wished to speak for or against this item. As no one spoke, he closed the public hearing.

Board members expressed their opinions and how they arrived at their opinions regarding the rezoning and variance requests. Vice-Chair Stevens disclosed that he had spoken with Mr. Laystrom about this issue.

Vice-Chair Stevens made a motion, seconded by Ms. Turin, to approve ZB 2-1-08.

Mr. Busey stated that he would like to support this project; however, with inadequate information on the legality of the Federal Statute, as well as no information in terms of the tax roll, he was forced to vote no on the item. Mr. Capozzoli agreed with Mr. Busey’s comment.

In a roll call vote, the vote was as follows: Chair McLaughlin – yes; Vice-Chair Stevens – yes; Mr. Busey – no; Mr. Capozzoli – no; Ms. Turin – yes. **(Motion carried 3-2)**

Vice-Chair Stevens made a motion, seconded by Ms. Turin, to approve V 5-1-08. In a roll call vote, the vote was as follows: Chair McLaughlin – yes; Vice-Chair Stevens – yes; Mr. Busey – no; Mr. Capozzoli – yes; Ms. Turin – yes. **(Motion carried 4-1)**

Variances

4.2 V 9-2-07, Commerce Bank, NA/Quinn Holdings, 2401 South University Drive (B-2)
Earlier in the meeting, this item was tabled to July 9, 2008.

4.3 V 2-2-08, Gallagher, 8310 SW 55 Court (R-3)

Al Gallagher, the petitioner, was present. Mr. Abramson summarized the planning report.

Mr. Gallagher advised that he started this process with the intention of adding a wall along an existing patio. He figured he might as well apply for an addition since he was going through the process. This involved two separate projects at the one location and both projects followed existing property lines.

Mr. Gallagher provided letters of approval from the two neighbors who would be impacted on either side as well as from the homeowners’ association.

Chair McLaughlin asked if anyone wished to speak for or against this item. As no one spoke, he closed the public hearing.

Mr. Busey asked staff to confirm that the applicant was seeking a variance on two proposals. Mr. Abramson responded affirmatively.

PLANNING AND ZONING BOARD
JUNE 11, 2008

Vice-Chair Stevens made a motion, seconded by Ms. Turin, to approve. In a roll call vote, the vote was as follows: Chair McLaughlin – yes; Vice-Chair Stevens – yes; Mr. Busey – yes; Mr. Capozzoli – yes; Ms. Turin – yes. **(Motion carried 5-0)**

4.4 V 3-2-08, Morissette/Rogers, 540 Green River Lane (PRD-3.8)

Marc Morissette, the petitioner, was present. Mr. Abramson summarized the planning report.

Mr. Morissette advised that the patio slab had been approved by the Town over 20 years ago even though it was not the correct size. The request was for a variance was made in order for a screen enclosure to be built over the existing concrete patio pad.

Chair McLaughlin asked if anyone wished to speak for or against this item. As no one spoke, he closed the public hearing.

A discussion ensued and staff affirmed that there was an approval letter in the file from the homeowners' association and that neighbors had not objected. Chair McLaughlin commented that by allowing this request, five years down the road a new owner may want to install a roof, then walls, and what would it lead to. On that premise, he could not support this item. Chair McLaughlin believed the Code had a distance separation for a reason and once violated and vertical structures built close together, it could become a safety hazard. As the Board could not predict the future, Chair McLaughlin advised that it vote on the merits of the application as it stood presently.

Mr. Busey made a motion, seconded by Vice-Chair Stevens, to approve. In a roll call vote, the vote was as follows: Chair McLaughlin – no; Vice-Chair Stevens – yes; Mr. Busey – yes; Mr. Capozzoli – yes; Ms. Turin – yes. **(Motion carried 4-1)**

4.5 V 5-1-08, Voigt/Lantana Square Shopping Center, Ltd., Northwest corner of University Drive and Stirling Road (B-2)

This item was approved earlier in the meeting.

5. OLD BUSINESS

There was no old business discussed.

6. NEW BUSINESS

There was no new business discussed.

7. COMMENTS AND/OR SUGGESTIONS

There were no comments and/or suggestions made.

8. ADJOURNMENT

There being no further business and no objections, the meeting was adjourned at 8:13 p.m.

Date Approved: _____

Chair/Board Member